

Mr. V. J. Mathai (*Planters*): Sir, there are some non-official Bills which we consider to be of very great importance from the interests of the public. Therefore, we would be very glad if sufficient time is given for non-official business.

Dr. A. R. Menon (*Minister for Rural Development*): The Kuri Bill may be taken up now and the discussion continued till it is over. Anyhow the third reading of the Bill will be over tomorrow, and then we can decide as to whether a day more should be allotted for non-official business or not.

Mr. President : We will decide it tomorrow.

GOVERNMENT BILL

The Cochin Kuries Bill—(cont.)

Clause 24—(cont.)

In sub-clause (5) delete the word "future" between the words "to" and "prize-winners" and delete between the words "the amount" and "may be" the words "of subscription payable in respect of the ticket for each instalment" and add at the end of the sub-clause: "or for any other investment in the manner specified in sub-section (2)".

[Messrs. A. L. Antony, K. Kochukunhan Kaimal and C. R. Iyyunni]

In clause 24, sub-clause (5) delete between the words "to" and "prize-winners" and delete between the words "the amount" and "may be" the words "of subscription payable in respect of the ticket for each instalment" and add at the end of the sub-clause: "or for any other investment in the manner specified in sub-section (2)".

[Mr. P. K. Madhava Menon]

In clause 24, sub-clause (5) add at the end of the sub-clause "or for any other investment in the manner specified in sub-section (2)".

[Mr. V. K. Krishnankutty]

Mr. M. Sivarama Menon (*Advocate-General*): Sir, the next three Amendments relate to the same sub-section. The amendment of Mr. Krishnankutty relates only to one point. When consolidated collections are received, the foremen are allowed to deposit it in the Treasury, or in the bank or in approved securities. When once the deposit is made under sub-sections (2), (3) and (4), it can only be withdrawn for the payment of subscriptions in respect of each future instalment. There is no objection to accept the amendment of Mr. V. K. Krishnankutty because what the amendment says is only that an opportunity should be given to the foremen to withdraw the amounts once deposited, for investment in approved securities thereafter. The amendment of Mr. Antony and others covers this aspect

as well as the further point that the foremen may be allowed the liberty of utilising the amounts deposited for payment to future as well as past prize-winners. Both these amendments are on the same lines. I, therefore, think that the effect of accepting amendments of Messrs. Antony or Krishnankuty will be this.

When consolidated collections are made, what the section says is that the foreman should deposit the same in the Treasury or in approved banks or in approved securities. When once such a deposit is made, the section as it stands makes it impossible for him to withdraw the same except for payment of future subscriptions in respect of that ticket. If he is able to secure a good investment after the deposit is made, it is only fair that he should be given option to invest it.

Mr. President: This amount is not for payment to anybody.

Mr. M. Sivarama Menon (Advocate-General): It is only for payment of future subscriptions. If he is able to get some other good investment, he should be given an opportunity to take advantage of it. That amendment may be accepted.

Mr. V. K. Krishnankutty (Ezhuvas-Trichur): Sir, I am very thankful to the Hon'ble the Law Member for having accepted my amendment in anticipation of my moving the same as modified in deference to the opinion of the Law Member.

My amendment is "*in clause 24, sub-clause (5) add after 'prize-winners' 'or for any other investment in the manner specified in sub-section (2)' and omit the words 'in this behalf'*".

The amendment only seeks to make complete the idea given in sub-section (2).

Amendment put and carried

***Mr. C. R. Iyyunni (Trichur-South):** Sir, the amendment that stands in my name is this.—*In sub-clause (5) delete the word "future" between the words "to" and "prize-winners" and delete between the words "the amount" and "may be" the words "of subscription payable in respect of the ticket for each instalment", etc.*

There is only one point on which I wish to elucidate. Clause 24 (5) reads thus.—*"From any deposit or investment made under sub-sections (2), (3) or (4), the amount of subscription payable in respect of the ticket for each instalment may be withdrawn from time to time as occasion arises for payment to future prize-winners or for any other investment in the manner specified in sub-section (2) in accordance with rules that may be prescribed"*. Now, if the amount is withdrawn in the case of money

* Speech not corrected by the hon'ble member.

that is deposited, it can be withdrawn only for payment to future prize-winners. My humble request is that a concession that the amount may be withdrawn to pay any prize-winner may be given because there will be ample security so far as the other people are concerned. After all, it does not make much difference. I request that this small concession may be given. Of course, it will be a great thing to the persons who conduct kuries. That is all what I have to say.

Mr. A. L. Antony (*Irinjalakkuda*): I second it.

Mr. M. Sivarama Menon (*Advocate-General*): Sir, I oppose this amendment. This will certainly involve a diversion of funds from one head to another. If a consolidated collection of all future subscriptions comes into the hands of the foreman, there is liability on the part of the foreman to pay the future subscriptions on account of that ticket. He must be allowed to take out of it only the amount necessary for payment of the subscription for each future instalment. The amendment requires that the amount may be drawn for the payment of prize-amounts to past as well as future prize-winners. That policy is not at all advisable. This is not such a small matter as the mover of the amendment put it. In a case where Rs. 15 alone will be necessary for the payment of subscription, the whole amount should not be allowed to be utilised for payment to others. I oppose the amendment on the ground that it will lead to a diversion of funds from one head to another, and it will also make the inspection work of the Superintendent of Registration rather very difficult.

Mr. C. R. Iyyunni (*Trichur-South*): I do not press the amendment.

Amendment, by leave, withdrawn

***Mr. C. R. Iyyunni** (*Trichur-South*): Sir, the next amendment standing in my name reads thus.—“*In sub-clause (6) delete between the words ‘rupees’ and ‘for every day’ the words ‘five hundred’ and substitute ‘ten’*”. This is with regard to the penalty clause. The present clause reads.—“Every foreman who knowingly and wilfully commits default in complying with the provisions of sub-section (2), (3) or (4) shall be liable to a fine not exceeding rupees five hundred for every day during which the default continues, and where the foreman is a company or other institution, every Managing Director, manager, any officer of the Company, or institution who is knowingly and wilfully a party to the default shall be liable to a like penalty”. Sub-clause (3) of clause 24 says: “The provisions of sub-section (2) shall apply to the consolidated collection of future subscriptions from a prized subscriber made by a foreman

* Speech not corrected by the hon'ble member.

subsequent to 18th Thulam 1115 and such deposit and investments shall be made in the manner specified in sub-section (2) within two months from the commencement of this Act." As the Diwan—President stated yesterday, probably it would be better to grant such further time as Government may deem fit to grant in any particular case. I presume that will be inserted in this clause, because the time allowed under sub-clause (3) is only two months. The consolidated collections made since the 18th day of Thulam 1115 have to be deposited within two months from the commencement of this Act. Even in cases where it is not possible for him to deposit the amount, the penalty is Rs. 500 for every day. That appears to be an abnormal thing, and in a case where he is really unable to pay certainly that will be too much. What I would request is that, in the case of sub-clause (3) alone, where he has to deposit the collections made subsequent to the 18th day of Thulam 1115, the fine may be reduced to Rs. 10 per day.

Mr. M. Sivarama Menon (*Advocate-General*): The only question involved is whether the fine should be reduced to ten rupees or not. The fine of Rs. 500 fixed is only the maximum. It is not stated there that he shall be fined Rs. 500.

Mr. C. R. Iyyunni (*Trichur-South*): I am only referring to sub-clause (3). With regard to the other clauses the fine may be fixed as high as possible. It is only just and proper in the case of the other clauses that the money actually received by him should be invested, and if he fails to do so, a very high penalty is fixed. We have no objection for that. But in the case of amounts collected from the 18th Thulam 1115 we should make a deviation.

Mr. President: The maximum penalty is only provided. Why should you presume that you will be fined the maximum amount?

Mr. C. R. Iyyunni (*Trichur-South*): If the fine is fixed at a high amount, the tendency is always to approach the maximum.

Mr. President: The tendency of the Registration Department is always to condone offences.

Mr. M. Sivarama Menon (*Advocate-General*): An amendment will be moved at the third reading to make the offence under clause (3) punishable only if he conducts a drawing. I suppose that will remove the objection of Mr. C. R. Iyyunni.

Mr. C. R. Iyyunni (*Trichur-South*): Yes. Then I have no objection. I do not press the amendment.

Amendment, by leave, withdrawn
Clause 24 as amended put and carried

Clauses 25 to 28*Clauses 25 to 28 put and carried***Clause 29**

Mr. M. Sivarama Menon (*Advocate-General*): Sir, I beg to move that "in sub-clause (1) of clause 29 for the word "therein" the word "thereto" may be substituted. This is purely a verbal amendment.

Mr. P. V. Raphael (*Joint Secretary to Government*): I second it.

*Amendment put and carried**Clause 29 as amended put and carried***Clauses 30 to 33***Clauses 30 to 33 put and carried***Clause 34**

Mr. M. Sivarama Menon (*Advocate-General*): Sir, I beg to move that in clause 34 the words "and subject to the provisions of section 21" be deleted. There is redundancy and hence they have to be omitted.

Mr. P. V. Raphael (*Joint Secretary to Government*): I second it.

*Amendment put and carried**Clause 34 as amended put and carried***Clause 35**

***Mr. P. Govinda Menon** (*Mulakunnathukavu*): "In clause 35, after the words 'subscribers' add the words 'in relation thereto' ". My amendment is only intended to make the intention of the legislature clear. I have drafted an amendment in consultation with the Advocate-General. I may be permitted to move that amendment, instead of the one originally tabled by me. My present amendment is: For clause 35 substitute the following.—

"Where there are amounts due from a foreman to the subscribers in respect of tickets subscribed for by them and also other debts due from such foreman, the kuri assets shall be applicable in the first instance in payment of the amounts due to the subscribers in respect of their tickets".

*Speech not corrected by the hon'ble member.

Now the clause as it stands may lead to the inference that any debt due from the foreman to a subscriber will have preference over other debts. It is not the intention of the Legislature to give that preference to any debt but only with respect to kuri debts.

Mr. M. Sivarama Menon (*Advocate-General*): I second it.

Amendment put and carried

Clause 35 as amended put and carried

Clause 36

Mr. M. Sivarama Menon (*Advocate-General*): Sir, I beg to move that in clause 36 for the words "*having territorial jurisdiction*" the words "*within whose territorial jurisdiction the kuri has been registered*" may be substituted. The amendment only fixes which court is to try cases under the Kuries Act. The place where the kuri is registered will determine the jurisdiction.

Mr. P. V. Raphael (*Joint Secretary to Government*): I second it.

Amendment put and carried

Clause 36 as amended put and carried

Clauses 37 to 49

Clauses 37 to 49 put and carried

Clause 50

***Mr. P. Govinda Menon** (*Mulakunnathukavu*): Sir, my amendment is intended to remove a serious *lacuna* in Chapter IX with respect to winding up of kuries. When a winding up petition has been filed by a subscriber, thereafter the non-prized subscribers may not subscribe for the kuri. Ultimately, after one or two years, the winding up petition may be dismissed. The result will be, as it stands, under the term of the *vaimpu*, the non-prized subscriber will be a defaulter. We have to provide against that contingency and hence this provision has been made. In the amendment tabled by me, I may be permitted to make a slight modification, and that is after the words "date of such order" the words "in respect of non-prized subscribers" may be added. So the present amendment I am going to move will read thus.—

In clause 50, add a sub-clause as follows.—

"(1) Where an order refusing to wind up a kuri has been made under this Act, the kuri shall be deemed to have been under

* Speech not corrected by the hon'ble member.

suspension from the date of the presentation of the petition to the date of such order in respect of non-prized subscribers, and notwithstanding anything contained in the vaimpu no non-prized subscriber who was not a defaulter on the date of presentation of a petition for winding up shall be deemed to be so on the date of its dismissal".

There is a *lacuna*, and I move that this sub-clause may be added on to the present clause.

Mr. M. Sivarama Menon (Advocate-General): I accept the amendment.

Mr. M. K. Devassy (Adur): My doubt is whether it should not be both regarding prized and non-prized subscribers.

Mr. M. Sivarama Menon (Advocate-General): The prized subscribers will, of course, have to pay under the terms of the bond. When there is a winding up petition, the non-prized subscribers will take care to see that the prized subscribers do not pay except under the directions of the court. The prized subscriber does not get out of the liability, in spite of the fact that the *kuri* has been suspended. Having taken the prize money from the foreman, he need not wait to pay until the whole proceedings are over. In cases where a receiver is not appointed or an injunction not issued, the foreman will be entitled to collect from the prized subscribers. It is only with regard to the non-prized subscribers that the *kuri* may be said to be in abeyance, and with regard to the prized subscribers it is otherwise.

Mr. M. K. Devassy (Adur): My only doubt is whether the *kuri* will not be terminating on two different dates as regards the prized and non-prized subscribers?

Mr. P. Govinda Menon (Mulakunnathukavu): No question of termination arises.

Mr. M. Sivarama Menon (Advocate-General): Here it is only a question of suspension.

Mr. Puthur Achyuta Menon (Kattur): The moment there is a winding up petition, persons who have to pay money will take advantage of the fact that there is a suspension.

Mr. M. Sivarama Menon (Advocate-General): The only persons who can take advantage of the position will be the non-prized subscribers. The prized subscribers are bound to pay.

Mr. K. Kochukunhan Kaimal (*Vadakkancheri*): If a receiver is appointed?

Mr. M. Sivarama Menon (*Advocate-General*): We have to provide for all sorts of contingencies in a legislation of this kind. Payments will have to be made in accordance with the orders of the court winding up the kuri.

Mr. M. K. Devassy (*Adur*): There is a partial suspension. In the case of the prized subscribers, it will terminate earlier than in the case of non-prized subscribers.

Mr. K. Kochukunhan Kaimal (*Vadakkancheri*): If the amendment is accepted, then, in a case where a receiver is appointed, will it empower the receiver to collect the amount?

Mr. M. Sivarama Menon (*Advocate-General*): The moment the petition is presented, the court may not be appointing a receiver. A receiver will have the right to collect.

Mr. Puthur Achyuta Menon (*Kattur*): What will be the fate of the defaulted subscribers?

Mr. M. Sivarama Menon (*Advocate-General*): There will be no drawing of the defaulted ticket. He will be getting the money in the general distribution of assets in the shape of dividend.

Mr. Puthur Achyuta Menon (*Kattur*): What will be the position of the defaulted subscriber who gets the *narak* prior to the petition for winding up the kuri?

Mr. M. Sivarama Menon (*Advocate-General*): He will get the amount on an application to the court, or he can proceed against the foreman.

Mr. K. Kochukunhan Kaimal (*Vadakkancheri*): As per this amendment, as far as the non-prized subscribers are concerned, the kuri will be deemed to be suspended on the presentation of a petition for winding up to the court. According to me, it will create complications, because the conditions of the subscribers may change. There will arise various difficulties.

Mr. M. Sivarama Menon (*Advocate-General*): If there is any doubt in the matter, Mr. Govinda Menon, I hope, will have no objection in adding at the end a clause to the following effect: "subject to such orders as may be passed by the court." The only thing that we want is to safeguard the interests of the subscribers.

Mr. President: Even without that proviso, where there is a petition, is it not open to the court to pass an order appointing a receiver to carry out the normal activities of the kuri?

Mr. Puthur Achyuta Menon (Kattur): Suppose, in the light of this provision, the kuri is suspended, the question will then arise whether the receiver will be entitled to make collections. If the kuri is suspended, then the receiver cannot function.

Mr. M. Sivarama Menon (Advocate-General): If there is any doubt in the matter, the clause "subject to such orders as may be passed by the court" or an appropriate proviso may be added.

Mr. M. K. Devassy (Adur): According to me I think there will be two different dates of termination. I think it will be worthwhile to consider this section tomorrow, after considering the legal implications.

Mr. President : When winding up proceedings are started, the respective positions of a prized subscriber and a non-prized subscriber are entirely opposed to each other. While the position of a prized subscriber becomes that of one who has got obligations to discharge, the position of a non-prized subscriber is one who has got his rights to be established and safeguard the money that he has already invested. It is just for that very purpose that the winding up proceedings are started. When my money is already invested, and I am apprehensive that that money may go, and I have instituted a suit to safeguard that money, I cannot be called upon to invest more money and place that money also in jeopardy. Obviously, the positions of the prized subscriber and non-prized subscriber must be different. There is no question of the termination of the kuri or its non-termination. That is not the legal position. Whether the kuri is terminated or not can be decided only after the final order of the Court on the winding-up petition. In the meantime, the obligation of the prized subscriber continues; but the non-prized subscriber need not pay.

Mr. M. K. Devassy (Adur): There is absolutely no difference of opinion with regard to the reasons. My point is this. If the kuri is not wound up, then with regard to the prized subscribers, the termination will fall on an earlier date than with regard to the non-prized subscribers. So there will be two different dates of termination.

Mr. President : Assuming that Mr. Devassy's position is correct for the purposes of argument, what is the consequence that he has to apprehend. Do you apprehend any anomaly or any legal complication? A legal anomaly must have some practical consequences upon the parties or any prejudicial application with respect to a particular right. I do not think there is any such thing.

Mr. P. Govinda Menon (Mulakunnathukavu): The date of termination is absolutely of no consequence, so far as the prized subscribers are concerned.

Mr. K. Ayyappan (*Ezhuvas-Kanayannur*): Should not the prized subscribers pay?

Mr. M. Sivarama Menon (*Advocate-General*): That the petitioner will take care. The obligation of the prized subscriber continues, and he must pay it either to the foreman or to anybody else. The man who has put in the petition will take care to see that the money of the prized subscriber is not paid into the hands of the foreman.

Mr. Puthur Achyuta Menon (*Kattur*): For a defaulted subscriber his amount has to be paid after the termination of the kuri. If there are two terminations at what time is he to get the money?

Mr. M. K. Devassy (*Adur*): We may devote some thought over this, and if found necessary, some amendment may be suggested at the third reading.

Mr. M. Sivarama Menon (*Advocate-General*): We have bestowed serious thought over this, and this is the decision that we have come to. There is no further necessity to reconsider the matter. The matter has been already considered in its various aspects.

Mr. President: The position is this. The Advocate-General and the hon'ble member Mr. Govinda Menon have discussed this matter together, and they are satisfied that no anomaly arises. So we may pass the amendment now, and if any hon'ble member feels that there is an anomaly, then he may bring forward a suitable amendment at the third reading stage.

Mr. M. K. Devassy (*Adur*): Yes, I shall do that.

Mr. President: Any way, to be on the safe side, the Advocate-General may add the following: "subject to such orders as may be passed by the court".

Mr. M. Sivarama Menon (*Advocate-General*): Yes, Sir; I will do that.

Amendment accepted

Mr. M. Sivarama Menon (*Advocate-General*): Sir, I move the following amendment:

"In sub-clause (2) of clause 50, for the words "winding up proceedings" substitute the words "proceedings for winding up the Kuri".

This is only a verbal amendment. I request the House to accept the amendment.

Mr. P. V. Raphael (*Joint Secretary to Government*): I second it.

Amendment put and carried

Clause 50 as amended put and carried

Clauses 51 and 52

Clauses 51 and 52 put and carried

Clauses 53 to 57

Clauses 53 to 57 put and carried

Clause 58

Mr. M. Sivarama Menon (*Advocate-General*): Sir, I move the following amendment.—

In sub-clause (1) of clause 58, between the words "substitute" and "the original security" insert the words "other security for".

This is only to make the wording happier.

Mr. P. V. Raphael (*Joint Secretary to Government*): I second the amendment.

Amendment put and carried

Mr. M. Sivarama Menon (*Advocate-General*): Sir, I move the following amendment.—

After sub-clause (2) of clause 58, the following shall be added as sub-clauses (3) and (4).

"(3) Where any security furnished by a foreman under the provisions of this Act has, in the opinion of the Superintendent of Registration, diminished in value or has become insufficient for any reason whatsoever, the Superintendent of Registration may call upon the foreman to furnish such additional security as he may deem fit, and the foreman shall be bound to comply with such requisition within one month from the date of receipt of such order.

(4) Where a foreman conducts a drawing without furnishing the additional security demanded under sub-section (3), he shall be liable to a fine not exceeding two hundred and fifty rupees."

I may at once tell the House that this sub-clause (4) will undergo some change in the 3rd reading when I will be moving an amendment to that clause. Therefore, let us now concentrate upon clause (3) alone. In the definition of approved securities we have included *verumpattom* rights, *kanom*, *panayam* and such other cognate tenures. Suppose there are arrears in the case of these tenures in respect of *michavaram* or *pattom*. Then the *jenmi* will be entitled to get a first charge upon those securities. Suppose

there is a property in which there is a building and suppose that building falls down or deteriorates in value. In such circumstances the Superintendent of Registration must have power to demand additional security. It is only to provide for such contingencies that this amendment is tabled.

Mr. P. V. Raphael (*Joint Secretary to Government*): I second the amendment.

Amendment put and carried

Clause 58 as amended put and carried

Clauses 59 to 62

Clauses 59 to 62 put and carried

Clause 63

Mr. V. N. Damodaran Nambiar (*Trippunittura*): Sir, this is my amendment :

"Omit clause 63 of the Bill."

I don't think any explanation is needed to bring home to this House the necessity for this amendment. The principle has already been accepted by Government.

Mr. M. Sivarama Menon (*Advocate-General*): Government accept the amendment.

Amendment accepted

Clause 63 omitted

Clause 64

Clause 64 put and carried

Clause 65

Mr. P. Govinda Menon (*Mulakunnathukavu*): Sir, in clause 65 it is stated that the provisions of this Act will not be applicable to a kuri whose value is less than Rs. 100. There will be several paddy kuries, and money value as stated in the definition is the value of paddy as given in the Government Gazette each week. Suppose there is a kuri whose amount is say, 200 *paras* of paddy. When the price of paddy is 9 annas a *para*, that kuri comes under the provisions of this Act, and when the price of paddy goes down to 7 annas a *para*, then the kuri will be outside the provisions of this Act. In order to avoid such a contingency I move the following amendment :

"In clause 65, after the word "amount" omit the rest and add "is less than one hundred rupees" where the subscriptions are payable in money and two hundred paras of paddy where they are payable in paddy."

Mr. M. Sivarama Menon (Advocate General): I accept the amendment with this change that the word "grain" is to be substituted for the word "paddy", in both places where the word occurs.

Amendment as modified accepted

Mr. V. K. Krishnankutty (Ezhuvas-Trichur): Sir, I move the following amendment:

"Delete proviso to clause 65."

The proviso to clause 65 says that a kuri of which the *sala* is less than Rs. 100 will also come within the purview of this Act. My submission is, in the original Bill as also in the Kuri Committee Report there was not this proviso. I think this was added somehow subsequently.

Mr. M. Sivarama Menon (Advocate-General): It was deliberately added by the Select Committee, not "somehow" as suggested.

Mr. V. K. Krishnankutty (Ezhuvas-Trichur): In the Kuri Committee Report there was no such recommendation. It was also left out in the Bill drafted by Government. It was subsequently added. I don't think that all these formalities and difficulties need be gone into in the case of kuries with a *sala* of Rs. 99 and less.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ : സർ, ആദ്യം ആധാരങ്ങൾ മുദ്രക്കടലാസ്സിൽ എഴുതലോ രജിസ്ട്രാക്കലോ ഉണ്ടായിരുന്നില്ല. പിന്നീട് കള്ളത്തരങ്ങൾ തുടങ്ങിയപ്പോൾ മുദ്രക്കലയിലും, മുദ്രക്കടലാസ്സിലും എഴുതണമെന്നും പിന്നീട് അതു രജിസ്ട്രാക്കണമെന്നും നിയമങ്ങളുണ്ടായി. ഇങ്ങിനെ കള്ളത്തരങ്ങൾക്ക് ഓരോ പ്രതിവിധി കണ്ടുപിടിച്ചു. അതുപോലെതന്നെ ൧൦൦ രൂപയിൽ താഴെയുള്ള കുറികൾക്ക് ഈ നിമയം ബാധകമല്ലെന്നു വന്നപ്പോൾ ൯൯ രൂപാ സലയുള്ള കുറി, അതായത് ൩൩ നരക്കു, നരക്ക ഒന്നു ൩ രൂപാ അങ്ങിനെ ൯൯ രൂപാ സലയുള്ള വളരെ കുറികൾവീതം ഓരോ സ്ഥാപനങ്ങൾ നടത്തുവാൻ തുടങ്ങി. ഇങ്ങനെയുള്ള കുറികൾ ഒരു ബാങ്കിൽത്തന്നെ പത്തും പതിനാലും നടത്തുന്നുണ്ട്. ഇങ്ങനെ അനേകം കുറികൾ ഒന്നിച്ചു കമ്മേഴ്സ്യൽ ആയിട്ടു നടത്തുവാൻ പാടില്ല. സ്ട്രീകളോ മറ്റൊരാ ഓരോ വീട്ടുസാമാനങ്ങളോ പശുക്കളോ എന്തെങ്കിലും വാങ്ങുന്നതിന്നു കുറി വെക്കുകയാണെങ്കിൽ നടത്തിക്കൊള്ളട്ടെ. ധാരാളം കുറികൾ ഒന്നിച്ചു ഓരോ കമ്മേഴ്സ്യൽ ആയിട്ടു നടത്തുവാൻ പാടില്ലായെന്നുള്ളതു് സെലക്ട് കമ്മറ്റി മെമ്പർമാർ അഭിപ്രായപ്പെട്ടിട്ടുള്ളതാണ്. അതുകൊണ്ടു ഭേദഗതിയെ ഞാൻ എത്രക്കുന്നു.

Mr. President : If a man starts only one kuri whose amount is less than Rs. 100, this Bill will not apply to that. Only when he starts more kuries, then the provisions of this Act will come into play. I suppose Mr. Krishnankutty has realised that.

Mr. V. K. Krishnankutty (Ezhuvas-Trichur): Even one bank starts 5 or 6 big kuries at one and the same time. There is

no law to preclude them from doing that. Why not the same principle be applied in the case of kuries started on a small scale?

Mr. President: If a man starts one kuri with a *sala* of less than Rs. 100, he does not come under the provisions of this Act. If he starts other kuries also, then only he will come under the Act.

മിസ്റ്റർ വി. കെ. കൃഷ്ണൻകുട്ടി: കളവുകളൊക്കെ കൂടിയെങ്കിലും 50 ഉറപ്പി കക്കു താഴെയുള്ള ആധാരങ്ങൾ രജിസ്റ്ററാക്കണമെന്നു വെച്ചിട്ടുണ്ടല്ലോ.

Mr. M. Sivarama Menon (Advocate-General): Sir, I oppose the amendment for the plain reason stated by the hon'ble member Mr. Panikkar. We only wanted to avoid the evasion of law by starting several kuries of Rs. 99 *sala*. At the same time we wanted to safeguard the small kuries started in rural parts for the purpose of purchasing a cow or for the education of children and such other purposes. If a person under cover of the exemption begins to start 50 kuries at a time with a *sala* of Rs. 99; that is, 33 instalments of Rs. 3, then he can very easily evade the provisions of law and defeat its very principles. As Mr. Panicker has vouched to this personal knowledge of a bank which is running a number of such kuries, suppose other banks also take it into their heads to start several such kuries with 33 instalments of Rs. 3 each and evade the provisions of law? Such a contingency is possible. We want to check it. That is why we have laid down that, if anybody conducts one such kuri he will not come under the provisions of the Act, and that if he conducts more, thereby evading this law, he should come under the provisions of the Act.

Mr. President: Mr. Krishnankutti, you seem to be convinced. (Laughter).

Mr. V. K. Krishnankutti (Ezhuvas-Trichur): I do not press the amendment

Amendment, by leave, withdrawn

Clause 65 as amended put and carried

Clause 66

Mr. M. Sivarama Menon (Advocate-General): Sir, my amendment is to the following effect:

Insert the following as clause 66 and re-number the rest of the clauses.—

"66. Government may, by notification in the Cochin Government Gazette, exempt any banking company governed by the Indian Companies Act as made applicable to Cochin with a prescribed minimum paid-up capital and reserve fund from depositing the

collections in respect of unpaid prize amounts under section 14 and the consolidated collection of future subscriptions from a prized subscriber under section 24, subject to such terms and conditions as may be prescribed."

This amendment is tabled in accordance with the undertaking that was given by me before this House when we began to discuss this Bill in general, that Government are inclined, after taking all the facts into consideration, to exempt banking companies which have got a prescribed minimum share capital and reserve fund, from the operation of the provisions regarding deposit of cash. That is, these companies will be at liberty to keep cash with them, subject to their full liability to meet all kuri demands in time. This section is intended to carry out that object. I firmly believe, though the hon'ble member Mr. Iyyunni may not agree with me, that this section is going to be a great encouragement to good bankers, and I hope that bankers will thrive as a result of this exemption.

Mr. P. V. Raphael (*Joint Secretary to Government*): I second the amendment.

Mr. C. R. Iyyunni (*Trichur-South*): Sir, the amendment is generally acceptable; but there is one difficulty with regard to the words "applicable to Cochin with a prescribed minimum paid-up capital and reserve fund". That means that a minimum paid-up capital as also the reserve fund may be prescribed. Instead of that, if it is amended so as to prescribe the amount of both the minimum capital *and* reserve fund *together*, then the provision would have been better. This is only a suggestion that I make. At the same time let me say that I am really glad that this new clause that is sought to be inserted will considerably relieve the strain, so far as banking institutions running kuries are concerned. I am thankful to Government for the introduction of this new provision.

Mr. President: Government will issue a notification, and in issuing the rules we will take the total of these two into consideration. That is the intention of Government.

Amendment put and carried

Mr. M. Sivarama Menon (*Advocate-General*): Sir, I move the following amendment to clause 66:

In clause 66 (2) of the Bill re-numbered as clause 67 (2) re-letter sub-clauses (g) and (h) as sub-clauses (i) and (j) and insert the following as sub-clauses (g) and (h) —

"(g) prescribing the rate of rebate of interest to be given by banking companies under the proviso to sub-section (1) of section 14;

(h) prescribing the maximum number and value of kuries that may be conducted at a time by a banking company exempted under section 66;

This clause deals with the rule-making powers of Government. It is a matter of common knowledge that the statute must confer specifically powers for framing rules under the Act, and wherever possible it is wise to indicate in general terms the subject on which the rules are to be made. Therefore, Government seek to take power under the above two heads also i.e., for the purpose of prescribing the rate of rebate of interest to be given by banking companies as also prescribing the maximum number and value of kuries that such companies can conduct. We have already exempted banking companies from the operation of this Act. Suppose a banking company begins to run hundred kuries with a capital of Rs. 4,000 or Rs. 5000, then the amount involved would be considerable and may be beyond the means justified by the assets and stability of that concern. Therefore, Government thought that they should have power to determine the number and value of kuries that a bank can run at a time. It is to safeguard against such a contingency that Government have brought forward this amendment.

Mr. P. V. Raphael (Joint Secretary to Government): I second it.

Amendment put and carried

Clause 66 as amended put and carried

Clause 67

Mr. P. Govinda Menon (Mulakunnathukavu): Sir, I move to amend clause 67 as follows:

"In clause 67, between the figure "35" and the word "and" add "to 50"."

The result of this amendment will be that the provisions of Chapter IX regarding winding up of kuries will be applicable to all the kuries.

Mr. M. Sivarama Menon (Advocate-General): I accept the amendment.

Amendment accepted

Clause 67 as amended put and carried

Clauses 68 and 69

Clauses 68 and 69 put and carried

Schedule

Mr. E. Ikkanda Warriar (Cheruthuruthi): Sir, My amendment is as follows:

"The schedule referred to in clause 13 as regards the provision where the kuri amount is Rs. 2,000 and above may be deleted and the following substituted.

Do.	Rs. 2,000	do.	Rs. 3,000	Rs. 35
Do.	Rs. 3,000	do.	Rs. 4,000	Rs. 45
Do.	Rs. 4,000	do.	Rs. 5,000	Rs. 50

Where the kuri amount exceeds Rs. 5,000 the commission shall be Rs. 10 for each Rs. 1,000."

The object of my amendment is to raise the commission to be given to the foremen. Up to Rs. 2,000 there is no change. It is only for kuries the *sala* of which is above Rs. 2,000 I have made certain changes. I have increased the amount on an average by Rs. 5.

Sir, the position taken up by this amendment is in line with the spirit of this enactment. The Hon'ble Diwan President told us yesterday that the very object of this legislation is to regulate the kuri institution which has developed into and has to be looked upon as a business concern in recent days. As observed by him, it has ceased to be a sort of co-operative concern between a few starters and subscribers. It has become a part of the banking concern. The duties of the foreman have become very great. His freedom is restrained by the various provisions of the Act. The kuri is no doubt a useful institution. I therefore submit that the foreman should be adequately paid. Section 13 provides a maximum commission stipulated in the schedule. The foreman is to be given only such commission as is provided in the *vaimpu*. No doubt the subscribers can make their own choice at the time they join the kuries, if the foreman is taking an unduly excessive amount of commission. My position in the matter is that considering the hardships and the various obligations that we have newly imposed upon the foreman, we have to correspondingly enhance his remuneration also to a slight extent, so that kuries may survive. Our duty in this respect is all the more greater, in view of the various apprehensions expressed by many members here that the moment this Bill is passed, many of the kuries will collapse. After all, the changes sought to be made by me are not very big. If I remember correct, the commission provided by the Kuri Committee is $1\frac{1}{4}$ per cent. But my proposition will not have the effect of giving them more than that. It will be slightly less. In view of this, I commend this amendment for the acceptance of this House.

Dr. A. R. Menon (*Minister for Rural Development*): Sir, on a point of information, should not the rates be less when the amount is increased?

Mr. E. Ikkanda Warriar (*Cheruthuruthi*): No, Sir. He will have to incur heavier expenditure. He has to keep an office. He has to spend on so many other items also. He is undertaking bigger responsibilities on his shoulders.

Mr. President: Mr. Iyyunni, are you moving your amendment or going to concentrate on Mr. Warriar's amendment?

Mr. C. R. Iyyunni (*Trichur-South*): I support Mr. Warriar because, of the various amendments, his amendment appears to strike at the mean. When the House was upon clause 13, and when all questions concerning the office expenses and such other things came up, the Council was inclined to enhance the commission fixed in the schedule. It is just that they should be given some sort of encouragement or else there will be no foremen coming forward to conduct kuries with these severe restrictions and very high responsibilities. With all these handicaps, it will be very unlikely that people would be coming forward to start kuries. By that I do not mean that they should get abnormal rates. But there must be sufficient encouragement given. I request that this matter may kindly be considered by this House.

Mr. President: Even as is now provided, in the case of a kuri with a *sala* of Rs. 5,000, a foreman will get Rs. 600 per year as commission.

Mr. M. L. Joseph (*Latin-Christians-Cranganur*): Only in the case of monthly kuries, they will get that. Suppose it is a case where the kuri is conducted twice a year. What would be the amount the foreman will be getting? It is Rs. 100, out of which he has to spend something by way of expenditure. I shall give the details of the expenditure also here. Kuri day's expenditure—Rs. 10 to 12.

Mr. V. K. Bhaskara Menon (*Cranganur*): For what? *Murukkan* and coffee? Will it come to so much?

Mr. M. L. Joseph (*Latin-Christians-Cranganur*): There are various other items of expenditure. There should be stationery; then they have to incur lighting charges and such other expenditure.

Mr. President: This is a point which even affects the fundamental basis of the legislation. Have you got any amendment?

Mr. M. L. Joseph (Latin-Christians-Cranganur): I had tabled an amendment for the purpose. But unluckily that was passed over.

I want to point out a difficulty the foreman of a kuri which has been conducted once or twice a year would be put to, if this schedule is allowed to stand as it is. The schedule should be equitable both in the case of long-term kuries and short-term kuries. In the case of long-term kuries, the subscribers get more profit under this schedule than in the case of short-term kuries. In the case of foremen in long-term kuries, they get by far less. Therefore, there will be no equity at all, if the schedule is allowed to stand.

I would like to point out that a general maximum may be fixed. The Hon'ble President remarked that in a Rs. 5,000 kuri the foreman will get Rs. 600. That is only in the case of monthly kuries. But in the case of half-yearly or yearly kuries, he will not get so much.

Mr. President: The hon'ble member ought to have tabled an amendment for that. We cannot now go back on the question.

Mr. M. L. Joseph (Latin-Christians-Cranganur): What I say is there is no equity in the schedule and the House will be justified in accepting an amendment. What I submit in the circumstances is, if Government are convinced that there is no equity in the schedule, I hope they will be pleased to bring a suitable amendment in the third reading stage.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ : ഈ Long term കുറികൾക്കാണ് സബ് സ്ക്രൈബേഴ്സിനു മാത്രമാണ് ഗുണമെന്നും കുറികൾക്കാർമാർക്ക് ഗുണമില്ലെന്നും പറയുന്നത് ശരിയല്ല. കൊല്ലത്തിൽ രണ്ടു നക്ഷാണെങ്കിൽ കിട്ടുന്ന നക്ഷാന്റെ പണം നൂ മാസം കഴിഞ്ഞിട്ടേ കുറി കിട്ടിയവർക്കു കൊടുക്കുകയുള്ളൂ. അതേവരെയുള്ള ഈ പണത്തിന്റെ പലിശ കിട്ടുന്നത് കയ്യാർമാർക്കാണ്. മറുകുറിക്ക് പണം കൊടുക്കാമെന്നാണ് കരാർ. അതുകൊണ്ട് ഈ പറയുന്നത് ശരിയല്ല. കൊല്ലക്കുറിക്ക് ഒരു കൊല്ലത്തെ പലിശ മുഴുവനും കിട്ടുന്നതുമാണ്.

Mr. T. P. Poullose (Kunayannur): May I know whether, according to the present rates prevailing in the case of monthly kuries conducted by the banks in Trichur, the commission is more than Rs. 50 for a Rs. 5,000 kuri? As far as my knowledge goes, at the rates prevailing in some of the respectable banks in Trichur commission in the case of kuries with a sala of Rs. 5,000 is only Rs. 50. May I know whether I am right?

Mr. C. R. Iyyunni (Trichur-South): Yes, you are right.

Mr. President: I think this schedule is equitable. For Rs. 5,000 he gets Rs. 50 a month. That is a good commission.

Mr. T. P. Poullose (Kunayannur): In fact all this commission amount is not necessary for the expenditure for conducting the kuri.

The profit for the starter consists of not only this monthly commission of Rs. 50, but also the interest on Rs. 5,000 which he collects initially, and which he has to pay only in the course of several instalments. That interest also he gets as profit. In the case of yearly kuries, as Mr. Joseph pointed out, the schedule will work at a considerably lower rate than the existing rates. Of course, there is no amendment tabled for this purpose. But if we are agreed that some change is necessary in the case of yearly kuries, and if Government also accept that position, an amendment to this effect can be moved at the third reading.

The foreman of a monthly kuri of Rs. 5,000 gets Rs. 50 as commission, and this Rs. 50 is the amount which the foreman has to subscribe for each instalment. But in the case of a half-yearly kuri of the same amount the foreman has to subscribe at least Rs. 250 for an instalment, while he gets only Rs. 50 as commission. If we examine the *vaimpus* we will find great disparity between prevailing rates of commission and the rates in the schedule in the case of the yearly kuries.

Dr. A. R. Menon (*Minister for Rural Development*): Don't you get interest for the whole year?

Mr. T. P. Poullose (*Kanayannur*): How can that be? The amount the foreman collects should be paid within 3 or 4 months.

Dr. A. R. Menon (*Minister for Rural Development*): In the case of an yearly kuri, he has to pay only at the next instalment, i.e., after one year.

Mr. T. P. Poullose (*Kanayannur*): That is a mistaken impression. The amount that he pays after 6 months or 1 year is not the amount that was collected at the previous instalment. He pays only the amount collected at the subsequent instalments, though the drawing might have been at the previous instalment.

Dr. A. R. Menon (*Minister for Rural Development*): Any way you get an *intervening* space between the collection of money and payment of money.

Mr. C. R. Iyyunni (*Trichur-South*): In the case of annual kuries that are being conducted in Trichur, the foreman does not take a ticket at all. But, in the case mentioned by Mr. T. P. Poullose probably the foreman himself takes a ticket. In Trichur, the money that is collected at one instalment is paid only at the next instalment.

Mr. T. P. Poullose (*Kanayannur*): Don't you have *kainarak*?

Mr. C. R. Iyyunni (*Trichur-South*): No *kainarak* whatever.

Mr. T. P. Poullose (*Kanayannur*): Interest on the *kainarak* amount is an item of profit which a foreman is entitled to.

Mr. President: I think the amendment is quite clear. As Mr. Poullose incidentally pointed out, the foreman gets Rs. 50 per month on Rs. 5,000. He need not find a single rupee from his own pocket. He has to start a *kuri* and take this Rs. 5,000 and enjoy the interest and commission.

Mr. T. P. Poullose (*Kanayannur*): That is with regard to monthly *kuries*. This won't apply to half-yearly and yearly *kuries*.

The schedule provided for will work out a departure from the existing practice. It will work out much lower rates in the case of half-yearly and yearly *kuries*. The people in the rural areas will not be able to subscribe to monthly *kuries*, because their income is seasonal. They will be able to subscribe only in *kuries* which collect subscriptions in yearly or half-yearly instalments. The monthly *kuries* by themselves will not help the rural people. If this schedule is brought into force, it will stifle the future of the yearly *kuries*.

Mr. President: In the case of the rural foreman as against the urban foreman, under the schedule, we have fixed the same scale of commission. But the rural foreman stands to gain, especially when his expenditure will be according to the rural conditions.

Mr. M. Sivarama Menon (*Advocate-General*): Is the villager to be saddled with an enhanced commission on account of that?

Mr. T. P. Poullose (*Kanayannur*): Not enhanced commission.

Mr. C. R. Iyyunni (*Trichur-South*): Sir, there is an amendment standing in my name.

Mr. President: If any particular amendment is to be pressed, I shall put it.

Mr. C. R. Iyyunni (*Trichur-South*): Then I may move my amendment. My amendment is as follows.—

*"The schedule referred to in clause 13 as regards the provision where the *kuri* amount is Rs. 3,000 and above may be deleted and substituted as follows.—*

Do.	Rs. 3,000	Rs. 4,000	Rs. 37 1/2
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*Where the *kuri* amount exceeds Rs. 4,000 the commission shall be Rs. 7 1/2 for each Rs. 1,000".*

Mr. P. Govinda Menon (*Mulakunnathukavu*): Under that amendment for a Rs. 5,000 *kuri* the commission will be less than the existing rate. That means, you will be doing great harm to the institution.

Mr. C. R. Iyyunni (*Trichur-South*): The object of my amendment is to give a uniform rate of commission in the case of kuries the amounts of which exceed Rs. 4,000. I have fixed a uniform rate of Rs. 7½.

Mr. M. Sivarama Menon (*Advocate-General*): I oppose the amendment.

Mr. E. Ikkanda Warriar (*Cheruthuruthi*): So far as my amendment is concerned, I do not wish to press it.

Mr. M. Sivarama Menon (*Advocate-General*): The Kuri Committee recommended a uniform rate of commission of 1¼ per cent on the capital amount of the kuri. On a close examination it was found that it will work great hardship upon kuries with less *salas*. That recommendation was therefore not accepted. After a consideration of all the facts, we found that 1¼ per cent is rather a high figure. Therefore, a commission of 5 to 50 rupees was fixed and in preparing the schedule we also consulted certain foremen and other people who knew, as a matter of fact, the exact profit derived in kuries. We got some accounts also in the course of discussion. A person, who was a foreman himself and with whom we discussed this matter, said that, though this Bill will cut out their profit to some extent, it will not be so low as to demand an increase in the commission. We made a calculation. According to our reasonable view of things, every foreman will be getting in the case of a Rs. 5,500 kuri Rs. 1,000 per annum on an average. The only dispute between Mr. Iyyunni and myself was regarding the establishment charges that have to be calculated. With regard to the long term kuries in village parts, they will not have to incur anything by way of office expenses. Then with regard to the bank and other well established concerns, they also need not incur much by way of office expenses, because they will have their own bank staff. I, therefore, think that this schedule does not require any change.

There was a deputation to the Diwan-President with regard to the long-term kuries. They said that the schedule required a change in respect of long-term kuries. I at first thought that there is something in the complaint. So I began to enquire into the matter. As a result, I do not think that long-term kuries will suffer in any way, because in some of the long-term kuries there is no commission at all and further the foremen in long-term kuries will get by way of interest a good profit. They will be getting more interest than in the case of a monthly kuri. I therefore think that the House will not agree to the amendment in the matter of increasing the commission fixed in the schedule, when the House is not apprised of the total profit the foreman gets in a kuri which runs its full term.

***Mr. C. R. Iyyunni (Trichur-South):** Sir, I may be allowed to speak one or two words with regard to this matter. Here a maximum is fixed where the kuri amount is Rs. 5,000 and above. Under the schedule it is fixed as Rs. 50. In the schedule, from Rs. 100 onwards up to Rs. 5,000, there is a grade fixed regarding the commission per instalment. But over Rs. 5,000 there is no grade fixed. The object of my amendment is to fix a grade where the kuri amount is Rs. 5,000 or Rs. 6,000 or Rs. 10,000, as the case may be. Does the Hon'ble Law Member contend that from Rs. 5,000 onwards up to any amount there are no further difficulties, risks or anything of the kind? Should not those kuries be taken into consideration at all? Therefore, what I submit is that, in the case of a kuri where there is a big amount as *sala*, the foreman runs a greater risk than under the kuries with lesser amounts. That is an aspect of the matter that is to be taken into consideration.

Secondly, with regard to the profits, the figures cited by the Advocate-General are not correct. He says that for a period of one year the profit that a foreman makes will come to Rs. 1,000. I say it is not a fact. Even granting that there is so much of profit, then there are also the risks attendant upon the taking of personal securities. Then, as regards the office expenses, he has taken a very reduced figure. The Kuri Committee went into that matter very minutely and with great scrutiny, and it is after doing all that, that they suggested $1\frac{1}{4}$ per cent. Basing on that rate, the commission will be Rs. 62½ for Rs. 5,000. Therefore, this is a case where the members of this House have to consider the risks and responsibilities of the foremen also, and the severe restrictions that have been brought to bear upon them under the new provisions.

Mr. Ikkanda Warriar's amendment, by leave, withdrawn

Mr. Iyyunni's amendment put and lost

Schedule put and carried

Clause 1

Mr. P. Govinda Menon (Mulakunnathukavu): Sir, I move the following amendments.—

In sub-clause 3 (a) omit the last sentence and in 3 (b) omit the words "and not terminated at the commencement of this Act".

Mr. M. Sivarama Menon (Advocate-General): I accept the amendments.

Amendments accepted

Clause 1 as amended put and carried

Title and preamble

Title and preamble put and carried

**Speech not corrected by the hon'ble member.*

Mr. M. Sivarama Menon (*Advocate-General*): I move that the Bill may be taken up for final reading to-morrow.

Mr. P. V. Raphael (*Joint Secretary to Government*): I second it.

Motion put and carried

The House rose for lunch at 1-15 p.m. and re-assembled at 2-45 p.m. with M.R.Ry.K.Ayyappan Ayl., Deputy President, in the Chair.

NON-OFFICIAL BILLS

The Cochin Vagrancy Bill

Mr. M. K. Devassy (*Adur*): Mr. President, Sir, I rise to move for the introduction of the Cochin Vagrancy Bill.

Mr. V. K. Krishnankutty (*Ezhuvas-Trichur*): I second it.

Mr. M. K. Devassy (*Adur*): I hope the House will excuse me if I take the House from the summit of the mountain to its foot, from the palace to the hut and from the talk of bankers and kuries to the talk of vagrants and the poor. It has been a subject-matter for discussion both as resolutions as well as questions before this House that some attempt should be made by the State to tackle the problem of vagrancy in Cochin. But the Government has been always trying to evade the issue with sufficient reasons so far as the Government is concerned *viz.*, that while beggary is a serious menace to the whole State and a rather disgraceful feature to a civilised State, it cannot be forgotten that there is the financial side of the whole question on which the true solution of the problem rests. It has often occurred to me, Sir, while walking along the public roads of Trichur and Ernakulam, and finding that by the side of the beautiful roads of Trichur the ailing beggar with his wounds exposed, crying aloud for a pie from 6 o'clock in the morning till 6 in the evening, that if a foreigner were to come and see this scene in Trichur, he would certainly be impressed with the appalling poverty in Cochin and the state of affairs to which a section of its population has been driven. It is very difficult to cure some types of problems. While it is very easy for a legislator to say that these problems require radical changes, I am prepared to concede that it is really a difficult matter for the State to tackle because it is either the result of a particular type of social organisation or the result of the historical economic evolution. But the fact remains that a section of people there are still in Cochin who require some help at least from the State. Therefore, my suggestion is that it may not be possible for the State to irradicate poverty altogether; it may not be possible for the State to create such a state of affairs that the rich and the poor are all alike, but it should be still possible for the State to give some